

LEGISLATIVE BILL 346

Approved by the Governor March 14, 2001

Introduced by Robak, 22

AN ACT relating to the Occupational Therapy Practice Act; to amend sections 71-6103, 71-6113, and 71-6115, Reissue Revised Statutes of Nebraska; to provide for continuing education; to define and redefine terms; to provide duties; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-6103, Reissue Revised Statutes of Nebraska, is amended to read:

71-6103. ~~As used in~~ For purposes of the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;

(2) Association means a recognized national or state association for occupational therapy;

(3) Audit means the selection of licensees for verification of satisfactory completion of the continuing education requirements of the act during a biennium;

(4) Biennium means a period of two calendar years;

(5) ~~Board shall mean~~ means the Board of Occupational Therapy Practice established by section 71-6115;

~~(2)~~ (6) Continuing education means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public;

(7) Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal;

(8) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;

(9) Department means the Department of Health and Human Services Regulation and Licensure;

(10) License means a license issued under the act;

(11) Licensee means a person holding a license;

(12) Occupational therapist means a person holding an active license as an occupational therapist;

(13) Occupational therapy shall mean means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy shall encompass encompasses evaluation, treatment, and consultation. Occupational therapy and may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped;

~~(3)~~ Occupational therapist shall mean a person licensed to practice occupational therapy pursuant to the Occupational Therapy Practice Act and whose license is in good standing;

~~(4)~~ Occupational therapy assistant shall mean a person licensed to assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist and whose license is in good standing;

~~(5)~~ (14) Occupational therapy aide shall mean means a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but shall do not require professional or advanced training or licensure;

(15) Occupational therapy assistant means a person holding an active

license as an occupational therapy assistant; and

~~(6) (16) Person shall mean means any individual, partnership, limited liability company, unincorporated organization, or corporate body. +~~

~~(7) Association shall mean a recognized national or state association for occupational therapy; and~~

~~(8) Department shall mean the Department of Health and Human Services Regulation and Licensure.~~

Sec. 2. Section 71-6113, Reissue Revised Statutes of Nebraska, is amended to read:

71-6113. (1)(a) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year unless renewed in the manner provided by section 71-110 upon the presentation to the board of evidence of completion of the continuing education requirements established under subsection (2) of this section and upon payment of the renewal fee prescribed in section 71-6114.

~~(2) (b) A licensee whose license is revoked for nonpayment of the biennial renewal fee as provided in section 71-110 may be reinstated upon the recommendation of the board and the payment of the reinstatement and renewal fees prescribed in section 71-6114 and an additional fee as prescribed in subsection (5) or (6) of section 71-110, except that no reinstatement of a license may be granted more than five years after its expiration.~~

(2)(a) Every occupational therapist shall, on or before August 1, 2002, and on or before August 1 of each even-numbered year thereafter, complete twenty hours of continuing education as a prerequisite to renewal of his or her license. Such continuing education shall consist of continuing education activities approved by the board.

(b) Every occupational therapy assistant shall, on or before August 1, 2002, and on or before August 1 of each even-numbered year thereafter, complete fifteen hours of continuing education as a prerequisite to renewal of his or her license. Such continuing education shall consist of continuing education activities approved by the board.

(3) Every occupational therapist and occupational therapy assistant shall provide a listing of continuing education activities participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Every occupational therapist and occupational therapy assistant shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The board shall biennially select, in a random manner, a representative sample of the license renewal applications for audit of continuing education credits. The board shall cause the occupational therapist or occupational therapy assistant to submit certificates or other records of attendance which were received from the approved provider for review by the board.

(4) The department, on the recommendation of the board, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee holds a Nebraska license but does not reside or practice in Nebraska;

(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months preceding the license renewal date;

(d) The licensee has been initially licensed by the board within the twenty-four months immediately preceding the license renewal date; and

(e) The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy.

Sec. 3. Section 71-6115, Reissue Revised Statutes of Nebraska, is amended to read:

71-6115. (1) ~~There is hereby established the~~ The Board of Occupational Therapy Practice ~~is established.~~ The board shall consist of at least four members appointed by the State Board of Health, all of whom shall be residents of this state. Any statewide association of occupational

therapists may submit a list of names of qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice. Three of the persons appointed shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of ~~valid~~ active licenses issued under the Occupational Therapy Practice Act during their terms. The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial appointment. The members shall not receive compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118.

(2) The board, with the approval of the department, shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act. The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, and (c) role delineation for occupational therapy assistants, and (d) approved continuing education activities, the maximum number of contact hours that can be earned in a specific continuing education activity, and waiver of continuing education requirements.

(3) For purposes of this section, approved continuing education activity includes a program of occupational therapy education and training approved by the board. Such approval may be based on the standards established by the board in conjunction with a statewide task force of occupational therapists, health care consumers, and other health care professionals.

Sec. 4. Original sections 71-6103, 71-6113, and 71-6115, Reissue Revised Statutes of Nebraska, are repealed.